

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CRAIG CUNNINGHAM,

Plaintiff,

v.

MICHAEL MONTES, TOLLFREEZONE.COM,
INC., MYDATAGUYS.COM, LLC,
PODMUSICGEAR.COM, INC., and
EMAILMYVMAIL.COM, INC.,

Defendants.

ORDER

16-cv-761-jdp

Plaintiff Craig Cunningham filed suit against defendant Michael Montes and his businesses, alleging that defendants called Cunningham's cell phone using an autodialer, in violation of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b) and (c). Dkt. 1. The court entered default judgment in the amount of \$176,450, for which defendants are jointly and severally liable. Dkt. 34 and Dkt. 35. The court also froze the defendant businesses' Wells Fargo bank accounts until Cunningham has collected the damages awarded. Now, Cunningham moves the court to (1) extend the asset freeze to defendants' accounts with First Data Merchant Services, LLC, and Powerpay, LLC; (2) order all frozen funds turned over to the court's registry; and (3) issue subpoenas to various banks and financial businesses for defendants' debit card information and account statements from 2016 and 2017. Dkt 37 and Dkt. 38.

Cunningham is getting ahead of himself, because he has not yet shown that he has made any effort to collect from defendants. As I indicated at the default judgment hearing, I am willing to consider a motion to order defendants to pay the amount of the judgment into the

court's registry pending appeal—if defendants do so, an extended asset freeze and post-judgment discovery is unnecessary. So I will deny Cunningham's motions without prejudice and order defendants to show cause as to why the court should not order them to deposit \$176,450 into the court's registry.

ORDER

IT IS ORDERED that:

1. Plaintiff Craig Cunningham's motion for emergency temporary restraining order and motion that all funds frozen be turned over to the court's registry, Dkt. 37, and motion for issuance of nine subpoenas, Dkt. 38, are DENIED without prejudice.
2. By July 31, 2017, defendants must show cause as to why the court should not order them to deposit the amount of the judgment into the court's registry.

Entered July 19, 2017.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge